



41 CFR Parts 102-35 and 102-37

[FMR Case 2018-102-6; Docket No. GSA-FMR-2019-0007, Sequence No. 2]

RIN 3090-AJ98

**Federal Management Regulation (FMR); Personal Property; Multiple Repeal
or Replace Regulatory Actions; Multiple FMR Parts**

AGENCY: Office of Government-wide Policy (OGP), General
Services Administration (GSA)

ACTION: Final rule.

SUMMARY: GSA is issuing a final rule to modify provisions
in the Federal Management Regulation (FMR) to improve
readability and ease of use by reorganizing certain FMR
parts to reflect the asset management life-cycle and by
updating the definition of a 'museum'.

DATES: Effective: [INSERT DATE 30 DAYS AFTER DATE OF
PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Mr. William Garrett,
Program Director, Office of Government-wide Policy, at 202-
368-8163, for clarification of content. For information
pertaining to status or publication schedules, contact the
Regulatory Secretariat at 202-501-4755. Please cite FMR
Case 2018-102-6.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the FMR to improve readability
and ease of use. Specifically, it reorganizes certain FMR

parts to reflect the asset management life-cycle and updates the definition of a 'museum'.

GSA sought public comments on improving FMR regulations through a *Federal Register* document (MA-2017-03) published on May 30, 2017, at 82 FR 24651. Concurrently, GSA sought comments and recommendations from agencies, GSA subject matter experts, and other stakeholders and customers.

The two substantive/germane comments and recommendations elicited from the *Federal Register* document were reviewed by GSA and are addressed in this rule. Two other recommendations addressing (1) agency asset management systems and (2) use of voluntary consensus standards were not included in this rule as GSA does not have the legal authority to promulgate regulations addressing property in use by an agency before it is reported to GSA as excess personal property.

Provisions in this final rule make the FMR policies addressing personal property management more understandable and easier to read. This final rule addresses the following:

1. An amendment to FMR section 102-35.10, listing FMR parts related to personal property disposal in sequence so that the listing of FMR parts follows the general life-cycle processes related to asset management and disposal; and

2. Revisions to the regulations governing the donation program to incorporate legislation regarding museums (Pub. L. 114-287, Section 23) to ensure consistency with Federal law. The donation program allows for the transfer of Federal surplus personal property to state agencies for surplus property for distribution to eligible recipients within their state.

II. Discussion of the Final Rule

A. Summary of Significant Changes

GSA is modifying provisions in the FMR to improve readability and ease of use.

B. Analysis of Public Comments

The proposed rule was published in the Federal Register on June 9, 2020 (85 FR 35236). Four comments were received, two of which were substantive/germane to the rule. An analysis of these public comments follows:

Comment: One respondent indicated that the proposed rule "is bad for the environment and public safety" and should not be implemented.

Response: These changes do not involve environmental concerns or public safety.

Comment: One respondent objected to "eliminating all definition references in this proposed rule" and that it is important to have definitions repeated in each area that are critical for understanding the requirements.

Response: Concur. The consolidation of duplicative occurrences of definitions has been removed from this final rule.

C. Expected Cost Impact to the Public

There is no expected cost to the public from this rule, as this rule is largely administrative. The changes will result in a better user experience with the FMR, as the information will be organized in a more logical order.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

IV. Congressional Review Act

This rule is not a major rule under 5 U.S.C. 804(2). Additionally, this rule is excepted from Congressional Review Act reporting requirements prescribed under 5 U.S.C. 801 since it relates to agency management or personnel.

V. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This final rule is also exempt from the Administrative Procedures Act per 5 U.S.C. 553(a)(2) because it applies to agency management or personnel.

VI. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, et seq.

List of Subjects in 41 CFR Parts 102-35 and 102-37

Government property management.

Robin Carnahan,
Administrator of General Services.

For the reasons set forth in the preamble, GSA amends 41 CFR parts 102-35 and 102-37 as set forth below:

PART 102-35—DISPOSITION OF PERSONAL PROPERTY

1. The authority for part 102-35 continues to read as follows:

Authority: 40 U.S.C. 121(c).

2. Amend § 102-35.10 by revising paragraphs (e) thru (g) to read as follows:

§102-35.10 How are these regulations for the disposal of personal property organized?

* * * * *

(e) Utilization and disposition of personal property with special handling requirements (part 102-40 of this subchapter B).

(f) Disposition of seized, forfeited, voluntarily abandoned, and unclaimed personal property (part 102-41 of this subchapter B).

(g) Utilization, donation, and disposal of foreign gifts and decorations (part 102-42 of this subchapter B).

PART 102-37—DONATION OF SURPLUS PERSONAL PROPERTY

3. The authority for part 102-37 continues to read as follows:

Authority: 40 U.S.C. 549 and 121(c).

4. Amend appendix C to part 102-37 by revising the definition of "Museum" to read as follows:

**Appendix C to Part 102-37-Glossary of Terms for Determining
Eligibility of Public Agencies and Nonprofit Organizations**

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Museum means a public agency or nonprofit educational or public health institution that is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate; and cares for these objects. A museum is considered to be attended by the public if the museum, at minimum, accedes to any request submitted for access during business hours. For the purposes of this definition, a museum uses a professional staff if it employs at least one full-time staff member or the equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or public exhibition of objects owned or used by the museum.